

## **RESOLUTION ON 2009 REAUTHORIZATION OF THE USA PATRIOT ACT**

Whereas, the Kentucky Library Association is committed to encouraging free and open inquiry by preserving the privacy rights of library users, library employees, and persons living in the United States; and

Whereas, the Kentucky Library Association opposes governmental actions that suppress or chill free and open inquiry and has called for the USA PATRIOT Act to be amended to restore fundamental constitutional rights and safeguards that protect the civil liberties of library users, library employees, and U.S. persons; and

Whereas, Section 215 of the USA PATRIOT Act allows the FBI to secretly request and obtain library records for large numbers of individuals without reason to believe they are involved in illegal activity; and

Whereas, Section 505 of the USA PATRIOT Act permits the FBI to obtain records from libraries by using National Security Letters (NSL) without prior judicial oversight; and

Whereas, Section 215 automatically requires and Section 505 permits the FBI to impose a nondisclosure or “gag” order on the recipients, thereby prohibiting the reporting of abuse of government authority and abrogating the recipients’ First Amendment rights; and

Whereas, FBI Director Robert S. Mueller III testified before the Senate Judiciary Committee on March 25, 2009, that the FBI had used Section 215 of the USA PATRIOT Act 223 times between 2004 and 2007<sup>1</sup>, and the Office of the Inspector General (OIG) of the Department of Justice reported in March 2008 that the FBI had made 192,499 National Security Letter requests from 2003 through 2006<sup>2</sup>; and

Whereas, the OIG reported in March 2008 that “the FISA Court twice refused to authorize Section 215 orders based on concerns that the investigation was premised on protected First Amendment activity, and the FBI subsequently issued NSLs to obtain information” without reviewing the underlying investigation to be sure it did not violate the statute’s First Amendment caveat<sup>3</sup>; and

Whereas, members of Congress have introduced legislation to restore privacy rights and address the concerns of the Kentucky Library Association such as: The Freedom to Read Protection Act (H.R. 1157 in the 108th Congress) and the National Security Letters Reform Act (S. 2088 in the 110th Congress and H.R. 1800); now therefore be it

Resolved that the Kentucky Library Association:

1. Opposes initiatives on the part of the United States government to constrain the free expression of ideas or to inhibit the use of libraries;
2. Urges Congress to repeal the USA PATRIOT Act’s expanded National Security Letter Section 505 and Section 215 authorities that allow the FBI to demand information about people who are not targets of an investigation and to reinstate standards limiting the use of these authorities to obtain information only about terrorism suspects and agents of foreign powers.
3. Urges Congress to allow nondisclosure or “gag” orders of limited scope and duration only when necessary to protect national security and only upon the authority of a court, and ensure

that targets of such orders have a meaningful right to challenge them before a fair and neutral arbiter.

4. Urges Congress to intensify its oversight of the use of the USA PATRIOT Act as well as other government surveillance and investigations that limit the privacy rights of library users, library employees, and U.S. persons; and

5. Communicates this resolution to Kentucky's Congressional Delegation, the Kentucky Legislative Assembly, the Governor of the State of Kentucky, and the Kentucky State Librarian; and

6. Urges its members, Kentucky librarians, library workers, Kentucky library trustees, and all library advocates to ask Congress to restore crucial safeguards protecting civil liberties.

#### Sources

1. Robert S. Mueller. (March 25, 2009). "Oversight of the Federal Bureau of Investigation," *Hearing of the Senate Judiciary Committee*. Accessed through LexisNexis Congressional database.

2. Office of the Inspector General, U.S. Department of Justice. (March 2008). *A Review of the FBI's Use of National Security Letters: Assessment of Corrective Actions and Examination of NSL Usage in 2006*, p. 110. Available at <http://www.usdoj.gov/oig/special/s0803b/final.pdf>

Office of the Inspector General, U.S. Department of Justice. (March 2008). *A Review of the FBI's Use of Section 215 Orders for Business Records in 2006*, p. 73. Available at <http://www.usdoj.gov/oig/special/s0803a/final.pdf>